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In re Application of
LETTAU et al
Application No.: 10/030,333
International Application No.: PCT/DE00/02073
Filing Date: 26 June 2000
Priority Date: 01 July 1999
Docket No.: A34843-PCT-USA
For: METHOD AND DEVICE FOR ROLLING A FOIL
OF VARYING THICKNESSES

DECISION

This application is before the PCT Legal Office for consideration of applicants' 15 April 2002 "Response" to the United States Patent and Trademark Office's (USPTO) Notice entitled "Filing of 35 U.S.C. 111 Application. Applicants request that the papers filed on 20 December 2001 be treated as a request for national stage processing of international application PCT/DE 00/02073 under 35 U.S.C. 371.

BACKGROUND

On 26 June 2000, applicants filed international application PCT/DE00/02073, which claimed priority of an earlier German application filed 1 July 1999. A copy of the international application was communicated to the United States on 11 January 2001.

On 19 December 2000, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2002 (01 January 2002 was a Federal holiday.)

On 20 December 2001, applicant filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371", which was accompanied by, *inter alia*, an English translation of the international application and the basic national fee, charge to applicant's deposit account. The application was assigned serial no. 10/030,333 and treated as a filing under 35 U.S.C. 111.

A Notice entitled "Filing of 35 U.S.C. 111 Application" was mailed to applicants on 01 April 2002 indicating that the 20 December 2001 filing was not "clearly identified as a submission to enter the national stage under 35 U.S.C. 371" and "was processed as a regular U.S. application".

On 15 April 2002, applicants filed the instant Response.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth

in 35 U.S.C. 371(c).


A review of the application file indicates that the transmittal letter filed on 20 December 2000 clearly identified the application as a national stage application being filed under 35 U.S.C. 371. The filing was incorrectly treated as a filing under 35 U.S.C. 111. A review of the finance records indicate that applicant paid the basic national fee of \$740. No conflicting instructions were found among the application papers. Accordingly, the original papers deposited on 20 December 2000 should have been accepted as a filing under 35 U.S.C. 371.


CONCLUSION

U.S. application 10/030,333 is considered the national stage application of international application PCT/DE00/02073.

The "Filing of 35 U.S.C. 111 Application" mailed on 01 April 2002 is hereby **VACATED**.

This application is being forwarded to United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision. A Notification of Missing Requirements will be issued indicating that an oath or declaration and the surcharge for filing the oath or declaration after the thirty month period is required.


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